

CITY-COUNTY  
**CONSTRUCTION AGREEMENT**  
**CITY- MAINTAINED ROUTE**

THIS AGREEMENT is made and entered into, by and between the State of Montana, acting by and through its Department of Transportation, hereinafter called the State, and the City-County of Butte-Silver Bow, a Montana municipal corporation, hereinafter called the City-County.

**WITNESSETH:**

I. THAT WHEREAS the State and the City-County propose to construct certain improvements on a specific highway in and through the City-County, the construction being known as Federal Aid Project No. \_\_\_\_\_, and

WHEREAS the construction will be over and upon \_\_\_\_\_, and

WHEREAS the State and City-County desire to receive Federal funds to construct the highway, and

WHEREAS the Federal Highway Administration of the U. S. Department of Transportation will not participate in the construction until and unless the City-County agrees to certain conditions, hereinafter set forth, and

WHEREAS this document must be duly executed and on record with the State and Federal Highway Administration before the work contemplated can be awarded to contract, and

WHEREAS the City-County hereby concurs in the designation of the highway, which was designated under Section 60-2-110, MCA, and

WHEREAS the City-County desires to have the construction done, the City-County deeming it to be a valuable and beneficial consideration,

II. NOW, THEREFORE, for and in consideration of the premises and of the agreement herein contained, the parties agree as follows:

(1) The City-County agrees to conform in all manner and respects to Chapter 8 of Title 61, MCA, and will not take any action, by enacting an ordinance or otherwise, in contradiction of the provisions of the traffic laws in Chapter 8 of Title 61, MCA, with specific reference, but not limited to, the following matters:

(a) The City-County will not install, or permit to be installed, any signs, signals, or markings not in conformance with the Standards approved by the Federal Highway Administration pursuant to 23 USC 109(d).

(b) The City-County will not pass any ordinances or laws establishing a speed limit less than twenty-five (25) miles per hour in any urban district, as defined in 61-1-410, MCA, on the highway.

(c) The City-County will not establish a speed limit of less than thirty-five (35) miles per hour outside an urban district as defined in 61-1-410, MCA, on the highway.

(d) The City-County will not erect any markings, sign, signal or traffic control device that will give preference to local routes which intersect with the highway; and no markings, sign, signal or traffic control device will be erected or constructed, nor shall the establishment or modification of any speed zone, parking regulation or traffic marking which will affect traffic on the highway be made without proper traffic and engineering study indicating that such markings, sign, signal or traffic control device is required.

(e) (1) The City-County will service, maintain and pay the cost of operating all improvements embraced by this agreement. As further consideration, the City-County agrees to accept any and all maintenance and other responsibilities pursuant to any applicable SWPPP and NOI administered by the Montana Department of Environmental Quality. These responsibilities will be accepted by the City-County at the time of final inspection. At that time the SWPPP will be transferred to the City-County, and City-County agrees to execute any necessary documents or take any other steps necessary for the transfer of responsibility for the SWPPP and the NOI at the appropriate time. The City-County agrees to protect, defend, indemnify and hold harmless the State, including the Department, for any claim, damage, loss or cause of action arising from, due to or allegedly due to the negligence of the City-County or its employees or the failure of the City-County to perform the maintenance activities described herein.

(2) If during the construction of any sections of the highway, should the State and/or the Federal Highway Administration, on account of unfavorable weather or other conditions not the fault of the contractor, authorize a suspension of construction operations thereafter and until the State and/or the Federal Highway Administration issue an order for the resumption of construction operations, the maintenance of the sections under construction will be by and at the expense of the City-County.

(f) The City-County will require the stopping of all traffic at all intersecting streets, alleys and driveways before entering the highway, and where the City-County considers that such traffic control creates a hazardous situation, they may modify the traffic control devices as may be in the public interest from a safety and convenience standpoint.

(g) The City-County has passed or will pass the necessary ordinances or laws to require parallel parking on the highway; and

The City-County has passed or will pass the necessary ordinances or laws to forbid stopping, standing or parking a vehicle on a sidewalk, in front of a public or private driveway, within an intersection, on a crosswalk, or within twenty (20) feet of the crosswalk of any intersecting street at its intersection with the highway; and

The City-County has passed or will pass the necessary ordinances or laws to forbid stopping, standing or parking a vehicle within thirty (30) feet upon the approach to any flashing beacon, stop sign, or traffic control signal located at the side of the highway; or within thirty (30) feet upon the approach to any flashing beacon, stop sign or traffic control signal located at the side of the roadway of an intersecting street at its intersection with the highway; on the roadway side of any vehicle stopped or parked at the edge or curb of the highway; or upon any bridge, or other elevated structure upon the highway; or within any highway tunnel that is a part of the highway, should such a structure exist or be built.

(2) In addition to the specific signs, signals and traffic control devices which may be shown on the plans, further restrictions as to parking, stopping and speed limits are set forth in the attached drawing labeled "Exhibit A," said exhibit being part of this agreement.

- (3) The City-County has reviewed and approved the plans.
- (4) The City-County will maintain the constructed facility and enforce the ordinances and/or regulations necessary and essential for the operations of the improvements as planned.
- (5) The City-County will maintain adequate traffic engineering capabilities to ensure that a continuing traffic engineering function is carried out on said project.
- (6) The City-County will remove or cause to be removed or modified, any existing encroachments encountered as may be directed by the State and at any future time will not permit nor suffer any encroachments on the right-of-way of the said road except upon the execution of the encroachment application and permit as issued by the State.
- (7) The City-County agrees to regulate utility occupancy on the right-of-way of this completed project in conformance with occupancy regulations that will comply with or be more restrictive than the requirements of ADMINISTRATIVE RULES OF MONTANA 18.7.201 thru 18.7.241 governing "RIGHT OF WAY OCCUPANCY BY UTILITIES."

III. During the performance of this Agreement, the City-County, for itself, its assignees and successors in interest, agrees as follows:

(A) COMPLIANCE WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964 FOR FEDERAL-AID CONTRACTS

(1) Compliance with Regulations: The City-County shall comply with all Regulations relative to nondiscrimination in Federally-assisted programs of the Department of Transportation, 49 Code of Federal Regulations, Part 21, as they may be amended (hereafter referred to as the Regulations), which are incorporated by reference and made a part of this Agreement, even if only state funding is here involved.

(2) Nondiscrimination: The City-County, with regard to the work performed by it during the Agreement, shall not discriminate on the grounds of sex, race, color, or national origin in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The County shall not participate either directly or indirectly in the discrimination prohibited by 49 CFR §21.5.

(3) Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations, whether by competitive bidding or negotiation by the City-County for work to be performed under a subcontract, including procurements of materials or leases of equipment, any potential subcontractor or supplier shall be notified by the City-County of the City-County's obligations under this Agreement and the Regulations relative to nondiscrimination.

(4) Information and Reports: City-County will provide all reports and information required by the Regulations, or directives issued pursuant thereto, and permit access to its books, records, accounts, other sources of information and its facilities as may be determined by Department or the Federal Highway Administration (FHWA) to be pertinent to ascertain compliance with Regulations or directives. Where any information required of the City-County is in the exclusive possession of another who fails or refuses to furnish this information, the City-County shall so certify to the Department or the FHWA as requested, setting forth what efforts it has made to obtain the information.

(5) Sanctions for Noncompliance: In the event of the City-County's noncompliance with the nondiscrimination provisions of this Agreement, Department may impose sanctions as it or the FHWA determines appropriate, including, but not limited to,

(a) withholding payments to the City-County under the Agreement until the County complies, and/or

(b) cancellation, termination or suspension of the Agreement, in whole or in part.

(6) Incorporation of Provisions: City-County will include the provisions of paragraphs (1) through (6) in every subcontract, including procurement of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto. City-County will take such action with respect to any subcontract or procurement as the Department or the FHWA may direct to enforce such provisions including sanctions for noncompliance: Provided, however, that in the event City-County is sued or is threatened with litigation by a subcontractor or supplier as a result of such direction, the City-County may request the Department to enter into the litigation to protect the interests of the State, and, in addition, the City-County or the State may request the United States to enter into such litigation to protect the interests of the United States.

(B) COMPLIANCE WITH THE MONTANA GOVERNMENTAL CODE OF FAIR PRACTICES, §49-3-207, MCA

In accordance with Section 49-3-207, MCA, City-County agrees that for this Agreement all hiring will be made on the basis of merit and qualifications and that there will be no discrimination on the basis of race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, or national origin by the persons performing the Agreement.

(C) COMPLIANCE WITH AMERICANS WITH DISABILITIES ACT (ADA)

(1) City-County will comply with all regulations relative to implementation of the AMERICANS WITH DISABILITIES ACT.

(2) City-County will incorporate or communicate the intent of the following statement in all publications, announcements, video recordings, course offerings or other program outputs: "City-County will provide reasonable accommodations for any known disability that may interfere with a person in participating in any service, program or activity offered by the City-County. In the case of documents, recordings or verbal presentations, alternative accessible formats will be provided. For further information call the City-County.

(3) All video recordings produced and created under contract and/or agreement will be closed-captioned.

D) COMPLIANCE WITH PARTICIPATION BY DISADVANTAGED BUSINESS ENTERPRISES IN DEPARTMENT OF TRANSPORTATION FINANCIAL ASSISTANCE PROGRAMS, 49 CFR § Part 26

Each Agreement the Department signs with a City-County (and each subcontract the prime contractor signs with a subcontractor) must include the following assurance:

"The City-County, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The City-County shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the City-County to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate.

IN WITNESS WHEREOF, the Director of Transportation's authorized representative has signed on behalf of the State of Montana and the Chief Executive of the City-County of Butte-Silver Bow, on behalf of the City-County of Butte-Silver Bow, has signed and affixed hereto the seal of the City-County.

STATE OF MONTANA, DEPARTMENT OF TRANSPORTATION  
Jim Lynch  
Director of Transportation

By \_\_\_\_\_, 200 .  
Administrator - Engineering Division

APPROVED FOR LEGAL CONTENT

\_\_\_\_\_  
MDT Legal Counsel

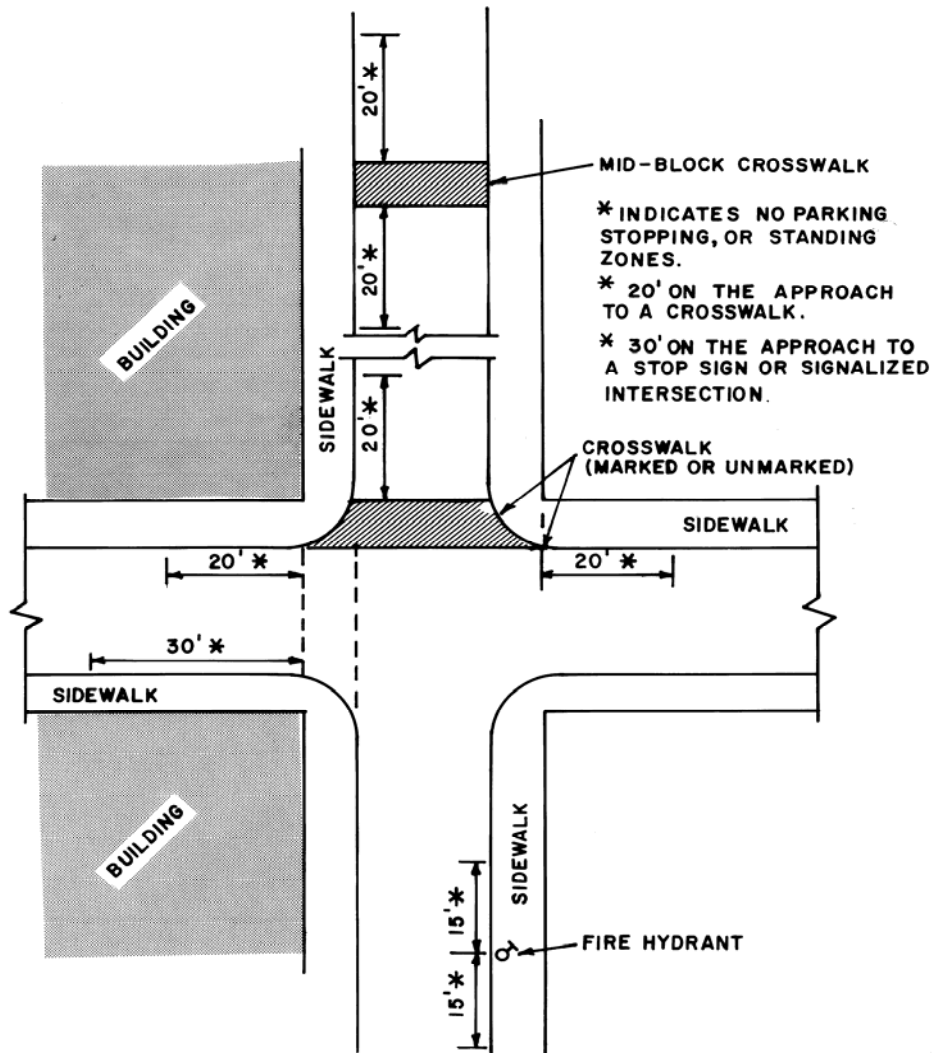
\_\_\_\_\_  
ATTEST: CITY-COUNTY OF BUTTE-SILVER BOW

\_\_\_\_\_  
City-County Clerk

By \_\_\_\_\_  
Chief Executive

\_\_\_\_\_, 200

"EXHIBIT A"



NO PARKING ZONES  
As Defined by  
MONTANA VEHICLE CODE

Prepared by Department of Transportation